



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Marchitto & Flock

FILED: May 3, 2001

SERIAL NO.: 09/848,596

FOR: Optical Imaging of Subsurface
Anatomical Structures and
Biomolecules

MS NON-FEE AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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ART UNIT:
3737

EXAMINER:
Qaderi, R.S.

DOCKET:
D6331

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JUN 21 2004

TECHNOLOGY CENTER 3700

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PATENT UNDER 37 CFR §1.321**

The owner, Rocky Mountain Biosystems Inc., of 100 percent interest in the instant application, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 USC §154-156 and 173 of U.S. Patent 6,353,753. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U.S. Patent 6,353,753 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 USC 154-156 and 173 of U.S. Patent 6,353,753, as shortened by any terminal disclaimer filed prior to the present grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a

court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 or Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or patent issued thereon.

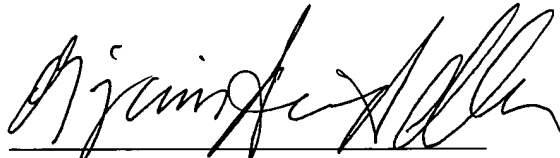
The Commissioner is hereby authorized to deduct the \$55 fee required under 37 CFR §1.20(d) and any additional fees which may be required from Deposit Account No. 07-1185.

Respectfully submitted,

Date:

June 1, 2004

ADLER & ASSOCIATES
8011 Candle Lane
Houston, Texas 77071
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Benjamin Aaron Adler, Ph.D., J.D.
Registration No. 35,423
Counsel for Applicant



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**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING SECOND APPLICATION**

The owner, Rocky Mountain Biosystems Inc., of 100 percent interest in the instant application, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. Sections 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 09/875,497. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the present grant, in the event

that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

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Please debit the \$55 fee required under 37 CFR §1.20(d) and any additional fees that may be required from Deposit Account No. 07-1185 on which the undersigned is allowed to draw.

Respectfully submitted,

Date:

Aug 8, 2004

ADLER & ASSOCIATES
8011 Candle Lane
Houston, Texas 77071
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Respectfully submitted,

Date: Jun 8, 2004



Benjamin Aaron Adler, Ph.D., J.D.
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Counsel for Applicant

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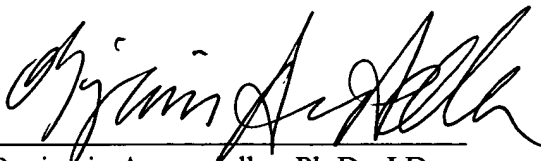
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